

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE/FEDERAL RELATIONS

Call to Order: By **CHAIRMAN AUBYN A. CURTISS**, on March 9, 1999 at 3:00 P.M., in Room 420 Capitol.

ROLL CALL

Members Present:

Rep. Aubyn A. Curtiss, Chairman (R)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. Matt Brainard (R)
Rep. Kim Gillan (D)
Rep. Gary Matthews (D)
Rep. Dan McGee (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)

Members Excused: Rep. Jay Stovall, Vice Chairman (R)
Rep. Karl Ohs (R)

Members Absent: None.

Staff Present: Gordon Higgins, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SJ 12, SJ 13, 3/24/1999
Executive Action: SR 12 Be Concurred In 8-0

HEARING ON SENATE JOINT RESOLUTION 12

Sponsor: Sen. Mack Cole, SD 4, presented SJ 12. He said there was lots of support for this. This resolution would be sent to our congressmen to make sure any of the proceeds of the tobacco settlement stay in the state and not be diverted to the federal government. **{Tape : 1; Side : A; Approx. Time Counter : 0.4 - 1.5}**

Proponents: Chris Tweeten, Chief Counsel for the Montana Department of Justice and representing Attorney General Joe Mazurek, presented written testimony in support of SJ 12.

EXHIBIT (sfh53a01) This settlement with the tobacco manufacturers occurred in November 1998. At that time the settlement had been reached, Montana and other states were notified by the Health Care Financing Administration, the federal agency which administers Medicaid, that the United States Government had asserted it had a claim for some portion of all of the states recoveries under this settlement, under the federal Medicaid laws. Those provision of law were enacted to allow for an apportionment to the United States government of the federal share of Medicaid dollars that are recovered due to overpayment of Medicaid benefits. These occur in two ways. One way is occasionally through clerical errors, providers are overpaid and there is an action to recover that money. For every dollar spent on Medicaid in Montana, seventy cents is federal and thirty cents state. Under those circumstances, when those types of recoveries are made - seventy cents goes to the federal government and thirty cents goes back to the state. The second type of case in which those recoupments occur are cases in which Medicaid benefit payments are paid in a situation where the recipient of the benefit had an action against someone else for causing the injuries for which the benefits were paid. If that person recovers medical expenses as part of the lawsuit that is filed, the United States and the state of Montana are then subrogated to a portion of that recovery to reimburse them for the benefits that were paid to provide treatment for the injuries. The Health Care Financing Administration asserted that under those provisions they were entitled to some percentage of the state's settlements and put the states on notice that they intend to assert that claim at some point in the future. The assertion of that claim has been delayed or put on hold by the White House because there has been action on Congress almost on the inception of the settlement to take up the issue of whether the federal government ought to assert that claim against this particular settlement and that is the reason for the resolution. Montana's share of that settlement, in a twenty five year period, may be in the neighborhood of \$832 million dollars that this Legislature would have the opportunity to apportion. If the federal claim is asserted, they could assert a claim for up to seventy percent of that money. **{Tape : 1; Side : A; Approx. Time Counter : 1.5 - 6.7}**

Drew Dawson, Chief of the Health Systems Bureau in the Department of Public Health and Human Services, testified on behalf of the department and Governor Racicot in support of the resolution. He said this would send a strong message to Congress that the tobacco settlement money should remain within the state of

Montana. The feds taking this money would do a dis-service to the state of Montana. The department feels that primary responsibility of these dollars should be to take care of health related problems and to prevent kids from starting to smoke.

{Tape : 1; Side : A; Approx. Time Counter : 6.7 - 7.9}

Jim Smith, representing the American Cancer Society, Montana Chapter of the Lung Association and Montana Chapter of the Heart Association, testified in support of the resolution. He said those three organization formed the nucleus of the tobacco control and prevention coalition. **{Tape : 1; Side : A; Approx. Time Counter : 7.9 - 8.7}**

Bob Runkle, Director of Special Education for the Office of Public Instruction and representing the state Superintendent Nancy Keenan, supported the resolution. SJ 12 sends an important message to Congress. He pointed out there were a lot of hidden costs to states as tobacco affects the lives of children. He referred to a packet of information that establishes a link from tobacco use and low birth weight and subsequently the link between low birth weight and the probability of need for special education and related services. That is just one of the areas where the state and families are adversely affected by tobacco use. This money is needed. There has been a lot of attention paid during the session for increased funding for special education and some of that need can be attributed to tobacco use. **{Tape : 1; Side : A; Approx. Time Counter : 8.7 - 10.2}**

Inga Nelson, representing the Montana Education Association and Montana Federation of Teachers, urged the committee's support of the resolution. Special education and special education funding has been closely tied in to the tobacco settlements because of the effects that it has on children. Special education funding would not have a chance if this money was taken away by the federal government. She urged support for the resolution. **{Tape : 1; Side : A; Approx. Time Counter : 10.2 - 11.1}**

Opponents: None

Questions from Committee Members and Responses: Rep. Soft asked Chris Tweeten asked about those who have been harmed because of their choice to smoke and bringing lawsuits against the tobacco companies if they could also turn and sue the states to recover damages for some of that money. Tweeten replied it was important to understand the status of the settlement as it related to individual lawsuits. There is nothing in the settlement that affects in any way the right of any individual to bring a lawsuit against the tobacco company. There is nothing in the settlement that creates a legal right on behalf of any smoker to sue the

state for some portion of our damages. Our damages were not asserted or calculated by reference to the individual damages of individual smokers. In fact, the theory of the state lawsuit was designed to avoid putting us in the shoes of individual smokers because that presented the opportunity for the tobacco companies to defend on the basis there was individual choices and the state of Montana made no choice to smoke, we simply provided benefits for people who were injured by smoking related diseases and we also have a number of different laws that we enforce dealing with marketing products like cigarette - consumer protection laws, anti-trust laws that we allege that the tobacco companies have violated. Nothing in the structure of the settlement contrives any kind of claim by any individual against any of this money, in his opinion. **{Tape : 1; Side : A; Approx. Time Counter : 12.5 - 13.4}**

Closing by Sponsor: Sen. Cole closed.

HEARING ON SENATE JOINT RESOLUTION 13

Sponsor: Sen. Steve Doherty, SD 24, presented the resolution. He explained the resolution addressed concerns about the social security system and proposals to privatize the system. The issue is to provide private accounts for social security money. The resolution talks about growth rates and returns on the social security trust fund. He distributed a news clip from the Great Falls Tribune where Alan Greenspan says that President Clinton's idea to privatize social security is a really bad idea. The reason he says that is the volatility of the stock market if you allow those private accounts, you may win but you may loose. The danger in losing those private accounts is apparent to all of us. If somebody's social security account is wiped out and they don't have money, they would end up being supported by the rest of us where as if we keep the fund intact then we would all be better off. The other reason is the proposal to invest \$700 billion dollars directly into the stock market would be influenced by political pressures as to where the money would be invested. **EXHIBIT(sfh53a02) {Tape : 1; Side : A; Approx. Time Counter : 17.2 - 20.6}**

Proponents: Vernon Bertelson, representing the Montana Senior Citizens Association, presented and read, written testimony in support of the resolution. **EXHIBIT(sfh53a03)** He pointed out the program keeps thousands of Montanans from having to live in complete poverty. **{Tape : 1; Side : A; Approx. Time Counter : 20.6 - 28.6}**

Kelly Hubbard, presented articles regarding the case for private social security and Greenspan's criticism. **EXHIBIT(sfh53a04), EXHIBIT(sfh53a05)** She represented the Montana Senior Citizens Association and as a student of the University of Montana. She pointed out that people in her generation felt they would be paying into a system all of their lives and upon retirement, find the trust exhausted and the system defunct. **{Tape : 1; Side : A; Approx. Time Counter : 28.6 - 30.2}**

Darrell Holzer, representing the Montana AFL-CIO, spoke in support of the resolution. He pointed out social security was intended to be a supplemental insurance program, not a retirement plan. There are lots of children whose parents are killed that rely on the benefits provided through the social security system. Everyone in the country will rely, to some degree, on this system. Privatization is the wrong approach. He pointed out that individuals had opportunities to take some of their earnings and invest in the market, but not with social security. **{Tape : 1; Side : A; Approx. Time Counter : 30.2 - 32.1}**

Rebecca Moog, Montana Woman's Lobby, supported the resolution. She pointed out there were many issues regarding poverty and the safety net was diminishing. Social Security was one of the only safety nets available. Privatization of the system would be detrimental and hurt families and children. She urged the committee to support the resolution. She said that Wendy Young with WHEEL also gave their support. **{Tape : 1; Side : A; Approx. Time Counter : 32.1 - 32.8}**

Kristine Kaufman, with the Montana Human Rights Network, was in support of the resolution. She said they believed that failure of the social security system will disproportionately affect women and racial minorities who often fall into the low income bracket in our society. They may be counting on social security for up to 50% of their supplemental income after retirement. Privatization is not the answer for a system that has security in the title. She described her personal experience with the system where the income helped raise the five children in her family when her father died. **{Tape : 1; Side : A; Approx. Time Counter : 32.8 - 34.2}**

Inga Nelson, representing the Montana Educational Association and the Montana Federation of Teachers, spoke in support of the resolution. She pointed out it was important to keep social security secure and intact and they oppose any attempt at privatization. **{Tape : 1; Side : A; Approx. Time Counter : 34.2 - 34.5}**

Opponents: None

Questions from Committee Members and Responses: Rep. Soft said it seemed this should go one step further. The Social Security Trust Fund had been moved by President Johnson's administration to the general budget so Congress could borrow from it and balance their budget. This resolution should urge Congress to pull that back out of the general Congressional budget so it is a separate trust fund that they can't touch. Sen. Doherty replied that it was a good suggestion. ***{Tape : 1; Side : A; Approx. Time Counter : 34.5 - 36.2}***

Closing by Sponsor: Sen. Doherty closed. He pointed out we could recognize the value of the contract made with senior citizens who have been paying into it for quite some time. The system needs to be kept secure. A lot of people are relying on the system.

EXECUTIVE ACTION ON SENATE JOINT RESOLUTION 12

Rep. Matthews **MOVED DO CONCUR.**

Rep. Soft suggested a cover letter be written and include the suggestion to move the trust fund back to where it belonged.

The question was called. The motion **PASSED** 8-0.

ADJOURNMENT

Adjournment: 4:06 P.M.

REP. AUBYN A. CURTISS, Chairman

DEB THOMPSON, Secretary

AC/DT

EXHIBIT (sfh53aad)